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ment of custom he seems to follow Herbert Spencer very closely in materials, method and conclusions.

On the other hand, legislation is not a true source of law. "It," p. 115, "was employed to compare differences between various classes in society and to furnish machinery by which the customary law might be more efficiently administered, and from time to time to better adapt that machinery to the changing and developing wants of society, and that where it was aimed directly at individual conduct it was for the purpose of securing better obedience to the customary law by public punishment of the more flagrant violations of custom, which is the office of criminal law; in other words, we find that at the first appearance of legislation its province and the province of Public Law were nearly contemporaneous. The province of Private Law is scarcely touched."

Legislation, however, is one of the means of improving our law. It assists the judges to keep step with public sentiment. Otherwise the law might lag behind sentiment due to the reticence of judges to say the custom has changed, or the law has changed.

To codification, the author is opposed. The uncertainty of "new cases," the impossibility of expressing law in incontrovertible language, even the experience of attempted codes show that private law ought not to be codified.

As a work on jurisprudence, we can scarcely expect to class this with Maine's or Holland's contributions. Yet these matured reflections of a scholarly lawyer are pleasing and valuable.

E. C. W.

*A Treatise on the Law of Landlord and Tenant.* By H. C. Underhill. Chicago. T. H. Flood & Co. 1909. 2 vols. pp. ccxxxiv. 1516.

Mr. Underhill's most recent contribution to legal literature will, we think, find favor. Especially will the young practitioner and the law student appreciate the simple, clear, concise language used in the treatment of this subject. Moreover, the experienced lawyer will find among the eight hundred and fifty-seven sub-titles something which touches almost every conceivable situation arising between landlord and tenant.

Although the table of cases covers two hundred pages it is a pleasure to note that this work is not a digest of decisions. Its text is not a mere skeleton upon which to hang cases and footnotes. On the contrary, the treatise seems to have been written out of

that fullness of knowledge essential to the production of a discussion, well-rounded, connected in thought interesting to the reader. For the most part the style is worthy of mention.

The professed purpose is the production of a treatise upon the modern law. But little space is given to the history of the origin and growth of the law of landlord and tenant. Some subjects, once important but now obsolete either by statutory legislation or judicial decision, have been omitted. In their place more timely topics have received attention. For example, we note the following: The lease of space in a department store (Sec. 198); contracts for advertising space (Sec. 204); the right to use an elevator (Sec. 282); the privileges of a tenant of a part of a building (Sec. 272); disposition of the insurance money when premises are destroyed during the term (Sec. 594); the lien of the landlord for rent and advances (Chap. xxxiii).

Mr. Underhill is a member of the New York bar. Some special stress has been placed upon the law of his home state (Secs. 86, 797 and elsewhere).

*R. H. McQ.*